

A. G. Contract No. KR96 2242TRN
ADOT ECS File: JPA 96-147
Project No.: TEA-WKL-0(1)P
TRACS No.: 0000 PN WNK SL386 01C
Section: Winkelman Bridge #8442

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF WINKELMAN

THIS AGREEMENT is entered into 2 December, 1996,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-
954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
TOWN OF WINKELMAN, acting by and through its MAYOR and TOWN
COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 AND 28-112 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The Town is empowered by Arizona Revised Statutes
Section 48-572 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has authorized
the undersigned to execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not
limited to, the construction of streets and primary, feeder and
farm-to-market roads; the replacement of bridges; the elimination
of roadside obstacles; and the application of pavement markings.

NO. <u>21222</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>12/02/96</u>
<u>James Lee Hull</u> Secretary of State
By <u>Vicky Greenwald</u>

4. Such project within the boundary of the Town has been selected by the Town; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The Town, in order to obtain federal funds for the construction of the project, is willing to provide the State with the Town funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

7. The work and the estimated cost are as follows: Bridge Restoration.

Estimated Project Cost (includes 15% CE Cost)	\$ 376,993.00
Federal Aid Funds @ 80% of \$376,993.00	\$ 301,594.00
Town Funds @ 20% of \$376,993.00	\$ 75,399.00
Five percent (5%) Surcharge	\$ 18,849.00
Total Town of Winkelman Funds	\$ 94,248.00*

* This includes a 5% surcharge on the total cost as per Local Government Engineer memo of 4 April 1994.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State, with the aid and consent of FHWA and the Town, will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the Town, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur

any expenditure in excess of the amount of the Town's deposit unless and until so authorized in writing by the Town.

2. Prior to the solicitation of bids, the Town shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required.

Upon completion of the construction contract, the State shall return to the Town any part of the funds deposited by the Town remaining after Town's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The Town shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The Town shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The Town shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the Town shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the Town.

6. Upon completion of construction, the Town shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, signs, and markings necessary for the purpose of regulating, warning and guiding traffic, all in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State,

any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and the Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the Town agrees to furnish and provide State with Town funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation	Town of Winkelman
Joint Project Administration	Town Clerk
205 S. 17th Avenue - 616E	Box 386
Phoenix, AZ 85007	Winkelman, AZ 85292

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

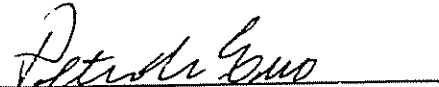
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF WINKELMAN

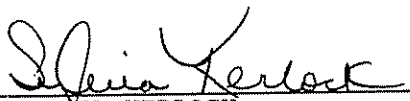
STATE OF ARIZONA

Department of Transportation

By 
GENE JEFFERY
Mayor

By 
PETER L. ENO
Contract Administrator


ATTEST:

By 
SYLVIA KERLOCK
Town Clerk

RESOLUTION

BE IT RESOLVED on this 1st day of October 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement Town of Winkelman for the purpose of defining responsibilities for the design, construction and maintenance of bridge reconstruction of Winkelman Bridge in the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for LARRY S. BONINE
Director

TOWN OF WINKELMAN

RESOLUTION NO. 295

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF WINKELMAN APPROVING AGREEMENT
JPA 96-147 BETWEEN THE STATE OF ARIZONA,
ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION
AND THE TOWN OF WINKELMAN FOR THE REPAIRS AND
RESTORATION OF THE "OLD WINKELMAN BRIDGE."

WHEREAS, it is in the public interest that the Old
Winkelman Bridge be repaired and restored.

WHEREAS, it is understood that matching grant funds
will be available from the Federal Highway Administration (FHWA)
for the repair and restoration of the bridge.


NOW, THEREFORE, BE IT RESOLVED that the Town of
Winkelman shall enter into an Intergovernmental Agreement with
the State of Arizona for the repair and restoration of the
bridge.

PASSED AND ADOPTED by the Common Council of the Town of
Winkelman and approved by the Mayor this 7th day of
November, 1996.



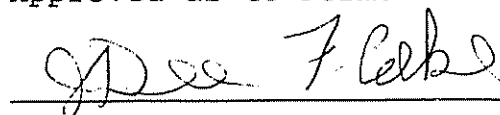
Mayor

Attest:



Town Clerk

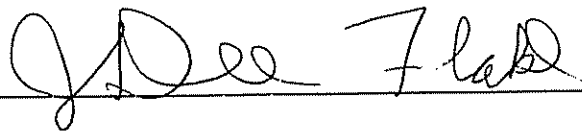
Approved as to Form:



APPROVAL OF THE WINKELMAN TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF WINKELMAN and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 7th day of November, 1996.



Town Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: 542-1680

Direct: 542-8837

Fax: 542-3646

MAIN PHONE: 542-5025

TELECOPIER : 542-4085

GRANT WOODS
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR96-2242TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 25th day of November, 1996.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:ggt
[TRNPHX2340]